

§ 362.3

20 CFR Ch. II (4-1-08 Edition)

§ 362.3 Who may file a claim.

A claim may be filed by an employee, by his spouse in his name as authorized agent, or by any other authorized agent or legal representative of the employee. If the employee is dead, his (a) spouse, (b) child, (c) father or mother, or both, or (d) brother or sister, or both, may file the claim and be entitled to payment in that order of priority.

§ 362.4 Delegation of authority.

The Deputy General Counsel of the Board is authorized to settle any claim filed under this part.

(45 U.S.C. 231f(b)(5))

[45 FR 57709, Aug. 29, 1980, as amended at 48 FR 51448, Nov. 9, 1983]

§ 362.5 Time limits for filing a claim.

A claim under this part may be considered only if:

- (a) The damage or loss occurred after August 31, 1964; and
- (b) The claim is filed in writing within two years after the damage, loss or theft occurred or became known to the employee.

§ 362.6 Procedure for filing a claim.

(a) Railroad Retirement Board Form G-108, Employee Claim for Loss or Damage to Personal Property, is the prescribed form for filing claims pursuant to the regulations in this part and must be completed by the employee, the person acting on his behalf, or his survivor and forwarded directly to the General Counsel of the Board for processing. Railroad Retirement Board Form G-108 may be obtained from the Board's Bureau of Law.

(b) In addition to the information required to complete the form described § 362.6(a), the following information or data must be submitted with each claim:

- (1) With respect to claims involving property which is stolen or lost, the purchase receipt, or if not available, statements from the employee estimating the value and what security measures or precautions were taken to protect the property;
- (2) With respect to claims involving property which is damaged, an itemized repair estimate from an ap-

propriate commercial source, or, if beyond repair, a statement from an appropriate commercial source or, if such a statement is not available, from the employee, indicating that the damaged property is beyond repair;

(3) With respect to claims involving property stated to be beyond repair in accordance with paragraph (b)(2) of this section, a statement from the employee estimating the value and the purchase receipt, if available;

(4) With respect to claims considered under § 362.10(b)(3), a statement by the employee's supervisor verifying that the supervisor required the employee to provide, or that the supervisor consented to having the employee provide, such property and that the provision of such personal property was in the interest of the Board;

(5) With respect to a claim filed by an agent or survivor of an employee, a power of attorney or other satisfactory evidence of authority to file the claim.

§ 362.7 Factors to be considered in settling a claim.

Claims are payable only for such types, quantities or amounts of tangible personal property as the Deputy General Counsel of the Board shall determine to be reasonable, useful, or proper under the circumstances existing at the time and place of the loss, theft or damage of the property. In determining what is reasonable, useful or proper the Deputy General Counsel will consider the type and quantity of property involved, the circumstances attending acquisition and use of the property, and whether possession or use by the employee at the time of loss, theft or damage was incident to the employee's service. What is reasonable, useful or proper is a question of fact to be determined by the Deputy General Counsel.

(45 U.S.C. 231f(b)(5))

[45 FR 57709, Aug. 29, 1980, as amended at 48 FR 51448, Nov. 9, 1983]

§ 362.8 Investigation of a claim.

The Deputy General Counsel or his designee may investigate the circumstances surrounding the theft, loss or damage of an employee's property.

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In order to complete such investigation, the Deputy General Counsel or his designee may request the submission of information in addition to that described in § 362.7 of this part.

(45 U.S.C. 231f(b)(5))

[45 FR 57709, Aug. 29, 1980, as amended at 48 FR 51448, Nov. 9, 1983]

§ 362.9 Fraudulent claims.

Claims are not payable for items fraudulently claimed. When investigation discloses that an employee, an agent of the employee, or a survivor of the employee has intentionally misrepresented an item claimed, as to cost, condition, cost of repair or other significant information, the claim as to that item will be disallowed in its entirety even though some actual loss or damage may have been sustained. However, if the remainder of the claim is proper it will be paid as to other items. This section does not preclude appropriate prosecution and disciplinary action if warranted.

§ 362.10 Principal types of claims allowable.

(a) In general, a claim may be allowed only for tangible personal property of a type and quantity that was, from the Board's perspective, reasonable, useful, or proper for the employee to possess under the circumstances at the time of the loss or damage. Any questions in this regard are to be resolved by the Deputy General Counsel.

(b) Claims that will ordinarily be allowed include, but are not limited to, cases in which the loss or damage occurred:

- (1) In a common or natural disaster;
- (2) When the property was subjected to extraordinary risks in the performance of duty or efforts to save human life or property of the United States Government;
- (3) When the property was used for the benefit of the Board at the direction, or with the consent, of a supervisor.

(45 U.S.C. 231f(b)(5))

[45 FR 57709, Aug. 29, 1980, as amended at 48 FR 51448, Nov. 9, 1983]

§ 362.11 Principal types of claims not allowable.

(a) Claims will be disallowed when:

(1) The personal property was lost, stolen or damaged prior to August 31, 1964;

(2) The loss or damage totals less than \$5 or, to the extent of the excess, more than the maximum amount provided in section 241(b)(1) of title 31 of the U.S. Code;

(3) The loss or damage was caused, at least in part, by the negligence of the employee or his agent;

(4) The personal property was acquired, possessed or transported in violation of law or regulation;

(5) The personal property was brought into Board offices for temporary storage in anticipation of delivery to another person or removal to another location;

(6) The personal property lost or damaged was food-stuffs or furniture;

(b) Claims which will ordinarily not be allowed include, but are not limited to, claims for:

(1) Money or currency, except when lost in a common or natural disaster;

(2) Articles of extraordinary value;

(3) Articles being worn (unless allowable under § 362.10);

(4) Intangible property, such as bank books, checks, notes, stock certificates, money orders or travelers' checks;

(5) Property owned by the United States, unless the employee is financially responsible for it to another U.S. Government agency;

(6) Losses of insurers or subrogees and those losses recoverable from an insurer or carrier;

(7) Losses or damages sustained in quarters not assigned or otherwise provided in kind by the Board;

(8) Losses recoverable or recovered pursuant to contract;

(9) Loss or damage to any vehicle used for transportation or in transportation (unless allowable under § 362.10).

§ 362.12 Computation of amount of reimbursement.

(a) The amount awarded with regard to any item of personal property will not exceed its depreciated replacement cost at the time of loss. Unless proven to be otherwise, replacement cost will